THE HON'BLE MR JUSTICE B. PRAKASH RAO
AND
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 26445 of 2005

Between:

Mrs. A. Swarupa

... PETITIONER

AND

The District Medical and Health Officer,
Nellore District, Nellore & another.

... RESPONDENTS

ORDER: **(PER THE HONOURABLE RR,J)**

Aggrieved by the order of the Tribunal in O.A.No.3727 of 2005 filed along with Review M.A.No.2279 of 2005 dated 30.11.2005, the present writ petition is filed by the applicant before the Tribunal. O.A.No.3727 of 2005 was filed challenging the order passed by the 1st respondent dated 30.06.2005, posting the 2nd respondent in place of the applicant, as contrary to G.O.Ms.No.144, Finance (W&H) Department, dated 07.06.2005 and the Government Memo dated 15.06.2005.

The applicant, who is a Multipurpose Health Assistant (Female), working at Kamireddypadu, Sub-centre of Ananthasagaram P.H.C., Nellore District, went on medical leave and on expiry thereof, when she reported to duty on 07.07.2005, the Primary Health Centre, Ananthasagaram informed her that she has been transferred.

The case of the applicant before the Tribunal was that, under G.O.Ms.No.144, dated 07.06.2005, unless transfers are mutual and on request against clear vacancies, the same shall not be effected and that, under the memo dated 15.06.2005, transfers could be made only on mutual basis and on request against clear vacancies. It is contended that no counseling was conducted, as contemplated in G.O.Ms.No.144, Finance and Planning, dated 07.06.2005, insofar as the applicant is concerned.

The vacancy to which the 2nd respondent had been transferred was a notified vacancy. The Tribunal referred to the conditions stipulated in G.O.Ms.No.144 dated 07.06.2005 and took note of the fact that counseling was held at the request of the 2nd respondent and that the applicant, even though she had put in 20 years of service at the

same station, did not apply for transfer and since she was on leave for nearly five months, the transfer was effected under G.O.Ms.No.144. The Tribunal took note of the fact that as the applicant had already put in 20 years of service in the same station and that the instructions issued in G.O.Ms.No.144, was not violated, the Tribunal held that transfer was an incidence of service and the Government employee holding a transferable post could be posted any where, within the parameters of the Rules and he/she cannot choose a place of his/her choice for work. The Tribunal held that it was not a case where any Statutory Rule had been infringed in transferring the applicant, and that it was also not a case where the orders of transfer were passed by an authority, who was not competent to do so. The Tribunal did not find fault in the impugned order of transfer dated 30.06.2006 and dismissed the O.A.

Before us, Sri P. Sridhar Reddy, learned counsel for the petitioner, seeks to make submissions on merits. He submits that the petitioner herein would make a representation to the Government against the impugned orders of transfer and that the said representation be considered on its own merits without being influenced by any observation made in the order of the Tribunal.

It is well settled that the competent authority is entitled to effect transfer of employees on administrative exigencies. Any grievance in this regard can only be addressed to the competent authority by way of a representation. The request made on behalf of the petitioner by Sri P. Sridhar Reddy merits acceptance. The writ petition is disposed of leaving it open to the petitioner herein to submit a representation to the respondent – competent authority, who shall on such representation being received, pass appropriate orders thereupon, without, in any manner, being influenced by any observation made either by the

Tribunal in the impugned O.A. or by this Court in the present writ petition.

With the above observations, the writ petition is disposed of. No costs.

B. PRAKASH RAO, J

RAMESH RANGANATHAN, J

Date: 27.07.2006
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